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C O N F I D E N T I A L SAN SALVADOR 000083

SIPDIS

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SUBJECT: Wiretap Law Passes, Implementation Needs USG Funding

REF: 09 SAN SALVADOR 390; 09 SAN SALVADOR 486

CLASSIFIED BY: RBlau, CDA, DOS; REASON: 1.4(D)

¶1. (C) Summary: On February 18, the Salvadoran Legislative Assembly unanimously passed a landmark wiretap bill, providing GOES authorities an important tool to combat the growing crime problem in the country. The Assembly had considered versions of electronic surveillance legislation for more than a decade, but intense USG engagement over the last two years helped break the legislative deadlock and push through a compromise that, we believe, will ensure effective surveillance while protecting civil liberties. Given the USG's interest in strengthening law enforcement in El Salvador and the GOES's limited resources, it is imperative that the USG assist the GOES to stand up this new wiretap center with equipment and training, either through Merida/CARSI funds or other sources. End Summary.

¶2. (C) The Assembly finalized the necessary constitutional amendment authorizing electronic surveillance in May 2009 (reftels), but the implementing legislation languished for months as the (center-right) Nationalist Republican Alliance (ARENA) and (left-wing) Farabundo Marti National Liberation Front (FMLN) wrangled over how wiretaps would operate in practice and who would control and operate them: ARENA favored the Attorney General (AG), the FMLN the National Civilian Police (PNC). In the end, the bill leaves wiretaps under the authority of the AG, but the center will be staffed by the PNC, a compromise both similar to Guatemala's model and consistent with the Salvadoran Constitution.

¶3. (C) Embassy Engagement: This victory is the fruit of more than two years of intense USG engagement with legislators and other GOES authorities and, while long overdue, demonstrates a promising degree of pragmatism and multipartisanship in the Legislative Assembly on public security. Two years ago, EmbOffs approached FMLN and ARENA deputies to start over from zero, setting aside previously defeated ARENA-only constitutional amendment drafts. Months of private lobbying, providing example texts from other regional governments, and Embassy participation in drafting sessions resulted in passage of an amendment and a bill with a single sticking point - ARENA's distrust of the PNC and the FMLN's desire to exclude the AG from wiretaps altogether. Following an Embassy-organized trip to Guatemala that showed Guatemalan prosecutors and police side-by-side conducting wiretaps, followed by two weeks of intense arm-twisting by EmbOffs, brought the FMLN to agree to AG control of the center but with PNC staffing. ARENA deputies, sensing opportunity, sought to amend the draft bill text to potentially exclude the PNC from operations, which threatened to bring us back to a stalemate. High level EmbOff interventions with ARENA, including calls by the Charge to ARENA President Alfredo Cristiani and former President Armando Calderon Sol, made clear our

willingness to blame publicly recalcitrant ARENA deputies. With the logjam broken, a new round of negotiations began on February 17, leading to passage of the bill on the 18th.

¶4. (SBU) Embassy San Salvador would like to thank Embassy Guatemala for its support in coordinating the Salvadoran deputies' February 1-2 visit to Guatemala's wiretap facilities.

¶5. (C) Comment/Next Steps: As long and rough as the road to this law has been, difficult work still lies ahead. The GOES does not have the funds necessary to establish an effective electronic surveillance agency without significant outside assistance. U.S. law enforcement equities in El Salvador, particularly direct communications between violent Salvadoran gang members and other criminals with their counterparts in U.S. cities, make it imperative that Washington assist the GOES in standing up the wiretap agency, either through Merida 2.0/CARSI funding or other sources for both training and equipment. Passage of this bill, which provides legal authority for electronic surveillance while protecting civil liberties, gives us hope that a national consensus on public security policy is possible, despite polarization on most every other issue in Salvadoran politics. End comment.
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